

CHAPTER 15: PAYMENTS TO SECURITY HOLDERS

15-1: OVERVIEW OF CHAPTER

This chapter addresses an issuer's obligation under the Ginnie Mae I MBS Program to pay security holders monthly and under the Ginnie Mae II MBS Program to make available to the CPTA each month funds sufficient to enable the CPTA to pay security holders. The chapter describes the required timing and computation of payments, the issuer's obligation to advance, and the issuer's ability to use excess funds and pool advance agreements. The chapter also describes the Ginnie Mae II MBS Program mechanism by which the CPTA withdraws funds deposited by the issuer for use in paying the security holders and the Ginnie Mae guaranty fee.

15-2: GINNIE MAE I MBS PROGRAM: METHOD AND TIMING OF PAYMENTS TO SECURITY HOLDERS

Under the Ginnie Mae I MBS Program, the issuer is obligated to make timely monthly payments of principal and interest to the security holders of record as prescribed in the securities, in the applicable Guaranty Agreement, and in this Chapter 15, without regard to whether the issuer will be able to recover, from liquidation proceeds, insurance proceeds, or late payments, amounts paid to security holders. The computation of these payments is described in Section 15-4.

(A) Method and Timing of Payments

Issuers must remit all payments due to security holders such that security holders will receive their installments as follows:

- (1) Payment by electronic transfer: Effective for all securities registered in the name of the designated nominee for the depository, with an issue date of October 1, 1998 or later, issuers are required to make payments by ACH transaction or by Fed wire.

For securities registered in the name of the designated nominee for the depository, with an issue date prior to October 1, 1998, Ginnie Mae strongly encourages issuers to pay the depository by ACH transaction or by fed wire. If an issuer elects to remit payments to the depository by ACH transaction or electronic transfer for securities with an issue date prior to October 1, 1998, it must continue to remit payments electronically while the securities are registered in the name of the depository's nominee.

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Section 15-2(A)(1) **(continued)**

Issuers must notify the depository, in writing, whether they will make the electronic payment by ACH transaction or by Fed wire. This notification must be provided to the depository no later than 30 days prior to the date the first electronic payment is due. Instructions for providing the notification are in Appendix VI-14.

The electronic transfer must be completed by the 15th calendar day of the month if the 15th is a business day. If the 15th calendar day is not a business day, the transfer must be completed by 1:00 PM, Eastern Time on the first business day following the 15th calendar day of the month.

An issuer of securities that are not registered in the name of the depository's nominee may make payments to a security holder by ACH transaction or fed wire, provided that it obtains the prior written approval of the security holder. If an issuer begins to make such payments by electronic transfer, it must continue to do so while the securities are registered in the name of that security holder.

- (2) Payment by check: If an issuer pays by check, the check must be received by the security holder not later than the 15th calendar day of each month. Ginnie Mae strongly encourages each issuer that pays by check to use a single check to pay each security holder that owns securities from two or more issuances for which the issuer is responsible.

(B) Remittance Advice

The issuer must deliver monthly an Issuer's Monthly Remittance Advice, form HUD 11714 (Appendix VI-10) (or, in the case of a serial note, an Issuer's Monthly Serial Note Remittance Advice, form HUD 11714SN (Appendix VI-11)) or equivalent information to each security holder, either directly or through the PPA as provided below, so that it will be received by the security holder on the day on which the security holder is entitled to receive payment.

The manner in which the form HUD 11714 or 11714SN must be delivered is as follows:

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Section 15-2(B) (continued)

- (1) Securities registered in the name of the depository's nominee, MBSCC & Co.

Issuers that, immediately prior to August 1, 1999, were sending forms HUD 11714 and 11714SN information to the depository's nominee, MBSCC & Co., electronically may continue to do so prior to July 1, 2000 or may convert to the use of GinnieNET 5.2 at any time prior to July 1, 2000.

For issuers sending form HUD 11714 and 11714SN information to the depository's nominee electronically, Form HUD 11714 (Appendix VI-10) contains the record layouts for reporting form HUD 11714 information in 9-track tapes or computer-to-computer transmissions. Additional assistance can be obtained from the depository (see Addresses).

Issuers that become issuers during the period August 1, 1999 through June 30, 2000 must, from the outset, transmit electronic forms HUD11714 and 11714SN using GinnieNET 5.2.

When an issuer submits electronic forms HUD 11714 and 11714SN to the depository's nominee using GinnieNET 5.2, the PPA will obtain the electronic forms HUD 11714 and 11714SN from GinnieNET 5.2 and forward them to the depository's nominee electronically.

Issuers that were not submitting forms HUD 11714 and 11714SN information electronically to the depository's nominee immediately prior to August 1, 1999 must, effective on that date, begin transmitting forms HUD 11714 and 11714SN electronically using GinnieNET 5.2. The PPA will obtain the electronic forms HUD 11714 and 11714SN from GinnieNET 5.2 and forward them to the depository's nominee electronically.

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Section 15-2(B)(1) **(continued)**

Effective July 1, 2000, all issuers will be required to transmit forms HUD 11714 and 11714SN for the depository's nominee to the PPA electronically, by the eighth business day of each month, using *GinnieNET* 5.2. Beginning July 1, 2000, an issuer may not submit form HUD 11714 and 11714SN information directly to the depository's nominee, either electronically or in hard copy. The PPA will obtain the electronic forms HUD 11714 and 11714SN from *GinnieNET* 5.2 and forward them to the depository's nominee electronically.

With respect to securities registered in the name of the depository's nominee, it is mandatory that the depository's nominee be named in the form HUD 11714 or 11714SN information or in the electronic form HUD 11714 or 11714SN as the security holder.

- (2) Securities not registered in the name of the depository's nominee, MBSCC & Co.

Effective July 1, 2000, all issuers will be required to transmit forms HUD 11714 and 11714SN for all security holders other than the depository's nominee to the PPA electronically. This transmittal must be made by the eighth business day of each month using *GinnieNET* 5.2.

Each issuer must also send forms HUD 11714 and HUD 11714SN directly to all security holders other than the depository's nominee, either in hard copy form or electronically as provided below. This obligation will continue after July 1, 2000.

- (a) Hard copy submission:

Issuers may send this information manually in the form of hard copies of forms HUD 11714 and 11714SN. If the issuer sends hard copy, it must submit the form HUD 11714 or 11714SN so that it is received by each security holder not later than the 15th calendar day of each month.

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Section 15-2(B)(2)(a) **(continued)**

An issuer that pays with a single check a security holder holding securities in more than one pool for which the issuer is responsible and wishes to submit the remittance forms in hard copy form may either send the security holder a separate form HUD 11714 (or form HUD 11714SN, if applicable) for each pool or a single-page remittance advice covering all of the pools. A single-page remittance advice must contain all information that would have been required had an individual remittance been sent for each pool.

(b) Electronic transmission:

In the alternative, an issuer may provide the required form HUD 11714 or 11714SN data by electronic media reporting to security holders other than the depository's nominee, but only in cases in which the security holder requests it and economies can be realized by doing so. Issuers must maintain in accessible form data substantiating individual remittances to security holders. Accessible form may include paper or other archival media.

An issuer that pays with a single check a security holder holding securities in more than one pool for which the issuer is responsible may either send the security holder a separate form HUD 11714 (or form HUD 11714SN, if applicable) for each pool or a single-page remittance advice covering all of the pools. A single-page remittance advice must contain all information that would have been required had an individual remittance been sent for each pool.

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Section 15-2 (continued)

(C) Undelivered Payments and Outstanding Checks

Payments to security holders that cannot be delivered or are never presented for payment are to remain in the account from which the funds were disbursed. The issuer must make all reasonable efforts to locate these security holders. Such funds are not "excess funds" as defined in Section 15-5(A) below and may not be used in lieu of advances.

The funds resulting from undelivered payments to security holders that are accumulated over a six-month period after the related payment date must be sent to the CPTA (see Addresses), pending a claim from the owner. The CPTA must receive the funds within 30 days of the close of the six-month period.

The funds transfer to the CPTA must be accompanied by a letter from the issuer, providing the issuer's Ginnie Mae ID number and, in hard copy, the Issuer's Monthly Remittance Advice, form HUD 11714 (Appendix VI-10) or, in the case of an SN pool, the Issuer's Monthly Serial Note Remittance Advice, form HUD 11714SN (Appendix VI-11), for each month's undelivered payments to security holders. The submission must include the security holder's EIN.

The procedures for honoring claims on funds previously sent to the CPTA require that the issuer examine the documents submitted by the claimant and either reject or approve the claim. If approved, the issuer will notify the CPTA in writing that the claim is valid (see Addresses). The CPTA will verify that the funds were previously received from the issuer and remit the applicable funds to the issuer for payment to the claimant.

(D) Incorrect Payment to Prior Security Holders

If for any reason a prior security holder is paid rather than the security holder actually due that payment, the issuer is obligated to use its own funds to honor valid claims by the security holder. It is the issuer's responsibility, not the security holder's, to seek recovery from the party that was incorrectly paid. Payment due the security holder cannot be delayed pending recovery from the party that was incorrectly paid.

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Section 15-2 (continued)

(E) Advances

If necessary to cover shortfalls in collections, the issuer must advance its own funds into P&I custodial accounts in order to effect full and timely payment of all amounts due security holders. Such advances, depending on the method of payment, must be made by the negotiable date of the electronic funds transfer or check, but no later than the 15th calendar day of the month or, if payment is by electronic payment, the electronic payment date as defined in Section 15-2(A)(1) above.

15-3: GINNIE MAE II MBS PROGRAM: METHOD AND TIMING OF PAYMENTS TO SECURITY HOLDERS

The issuer is obligated to deposit into the central P&I custodial account funds sufficient to enable the CPTA to make timely monthly payments of principal and interest to the security holders of record as prescribed in the securities, in the applicable Guaranty Agreement and in this Chapter 15. The issuer is obligated to make this deposit without regard to whether the issuer will be able to recover the amount of the deposit from liquidation proceeds, insurance proceeds, or late payments. The computation of these payments is described in Section 15-4.

(A) Timing of Deposits and Withdrawals

- (1) By 4:00 pm New York City time on the 19th calendar day of each month, the issuer must have in the central P&I custodial account “same day funds” or “good funds” for each of its Ginnie Mae II pools or loan packages in the amount described in Section 15-4 below. If the 19th calendar day is not a business day, then the applicable date must be the 20th calendar day. If the 20th calendar day also is not a business day, then the applicable date must be the business day immediately preceding the 19th calendar day of the month.
- (2) The CPTA will debit an issuer’s central P&I custodial account, by separate ACH transaction for each pool or loan package, after 4:00 pm on the 19th calendar day of each month. If the 19th calendar day is not a business day, then the applicable date must be the 20th calendar day. If the 20th calendar day also is not a business day, then the applicable date must be the business day immediately preceding the 19th calendar day of the month.

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Section 15-3 (continued)

(B) Payments and Remittance Advice

The CPTA will, by check dated the 20th of the month, pay the security holders in whose names the securities are registered on the last day of the month preceding the month in which the payment is made. The CPTA will mail each check prior to 10:00 am on the day the CPTA debits the issuer's central P&I custodial account and will include with each check a Remittance Advice, prepared by the CPTA, in the form set forth in Appendix VI-15. The issuer is not responsible for preparing the Remittance Advice.

(C) Advances

If necessary to cover shortfalls in collections, the issuer must advance its own funds into the central P&I custodial account in order to enable the CPTA to effect timely payment of all amounts due security holders. Such advances must be made prior to 4:00 pm New York time on the date prescribed in Section 15-3(A)(2).

Scheduled interest due on a buydown mortgage includes amounts scheduled to be collected from both the mortgagor and the provider of the buydown funds. Issuers are responsible for making advances and for losses that may arise as a result of shortfalls in funds from either of these sources.

15-4: BOTH GINNIE MAE MBS PROGRAMS: COMPUTATION OF PAYMENT OR DEPOSIT

In most cases, the issuer's monthly payment to security holders (Ginnie Mae I MBS Program) or deposit to the central P&I custodial account (Ginnie Mae II MBS Program) must consist of three elements: interest, scheduled principal, and unscheduled recovery of principal, in each case computed as described below. Exceptions, if any, applicable for particular pool types can be found in Chapters 24 through 32. Further explanations are provided in the Issuer's Monthly Accounting Report, form HUD 11710-A (Appendix VI-4).

(A) Interest

Interest due on the securities each month is computed as one-twelfth of the annual rate of interest payable on the securities, multiplied by the remaining principal balance of the securities at the end of the prior month.

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Section 15-4 (continued)

(B) Scheduled Principal

Generally, scheduled principal payments due on the securities each month are the scheduled amounts of principal due on the pooled mortgages (a) for concurrent date pools, on the first day of the month in which the principal payments on the securities are due, or (b) for internal reserve pools, on the first day of the month preceding the month in which the principal payments on the securities are due.

Scheduled mortgage payments collected in advance of their due dates are to be retained by the issuer in the P&I custodial account for payment to security holders or deposit into the central P&I custodial account, as appropriate, during the month in which the payments are required to be passed through to security holders.

(C) Unscheduled Recovery of Principal

In addition to the regular monthly scheduled principal payments referred to in paragraph (B), each monthly payment to security holders or deposit to the central P&I custodial account must include all unscheduled recoveries of principal received by the issuer or due through the monthly reporting cut-off date (see Section 17-3) preceding the day on which principal payments on the securities are due.

- (1) Unscheduled recoveries of principal are proceeds received in connection with or that become due on the mortgage or the property securing the mortgage, other than scheduled principal and interest payments and miscellaneous collections, which are defined below.

Unscheduled recoveries of principal include, but are not limited to, the following:

- (a) prepayments (excluding scheduled payments made in advance of their due dates, which the issuer is to hold in the P&I custodial account and pay to security holders or deposit in the central P&I custodial account, as appropriate, in connection with the appropriate security payment date);
- (b) mortgage or title insurance and mortgage guaranty claim settlement proceeds;

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Section 15-4(C)(1) **(continued)**

- (c) hazard insurance and condemnation proceeds, to the extent not used to repair the collateral;
- (d) proceeds from foreclosure sales or repossession sales and any payments received in lieu of foreclosure or repossession of the collateral;
- (e) any principal amount of a mortgage finally discharged by a bankruptcy court;
- (f) proceeds from any disposal or transfer of a pooled mortgage, except for authorized transfers of issuer responsibility or pledges of servicing;
- (g) payment from the issuer's own funds as required in (b) below; and
- (h) all other payments or proceeds that reflect the recovery of principal on a mortgage.

The entire amount of any such payment, whether or not actually received by the issuer, will be considered an unscheduled recovery of principal.

- (2) Unscheduled recoveries of principal must, as appropriate, be passed through to security holders or deposited into the central P&I custodial account in their entirety, as discussed above, so long as funds are due under the security, except as specifically approved in the instructions to the Issuer's Monthly Accounting Report, form HUD 11710-A (Appendix VI-4); advances previously made by the issuer may not be recovered from these funds until the security holders have been paid in full. Any deduction from an unscheduled recovery of principal made by third parties must be replaced by the issuer prior to pass through or deposit.

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Section 15-4 (continued)

(D) Payment Based on Remaining Principal Balances

Notwithstanding Sections 15-4(B) and (C), the payment of principal to security holders in each month must be based on the RPB reported for the related pool in that month, as corrected through the close of business on the fifth business day of the month.

An issuer that reports an incorrect RPB, and thus pays security holders more or less principal than required under Section 15-4(B) and (C), can find guidance on correcting the problem in the instructions to Section 1-A. of form HUD 11710-A, Issuer's Monthly Accounting Report (Appendix VI-4)

(E) Escrow and Miscellaneous Collections

The following escrow and miscellaneous collections are not recoveries of principal:

- (1) mortgage insurance premiums;
- (2) tax payments;
- (3) hazard insurance payments;
- (4) special charges related to servicing;
- (5) late charges;
- (6) ground rents;
- (7) special assessments;
- (8) water rents;
- (9) attorney's fees; and
- (10) any funds to repay the issuer's expenditures under the terms of the mortgage to complete construction, pay for security services, or prevent waste.

(F) Losses Associated With the Removal of a Loan From the Pool

To the extent that the remaining principal balance of a mortgage has not been recovered by the issuer at the time of:

- (1) final payment of the mortgage insurance or guaranty claim proceeds, or other final disposition of a claim by the insuring or guarantying federal agency; or

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Section 15-4(F) (continued)

- (2) the withdrawal of a defective loan from the pool; or
- (3) any other complete liquidation or disposition of the mortgage or the mortgaged property (including, but not limited to, completion of foreclosure or any other act by which the mortgage no longer is in its pool or no longer provides backing for the securities related to that pool);

the monthly payment to security holders or deposit in the central P&I custodial account, as appropriate, following the month in which an action described in 1, 2, or 3 (whichever comes first) is taken shall include an amount, to be paid from the issuer's own funds, that, with respect to the amount owed on the related securities, will reduce the RPB of the mortgage to zero.

15-5: EXCESS FUNDS AND POOL ADVANCE AGREEMENTS

Issuers of all pools containing more than one loan may use "excess funds" in lieu of their own funds to make necessary advances. Alternatively, issuers may enter into a Pool Advance Agreement with a financial institution. Excess funds and Pool Advance Agreements are described below.

(A) *Excess Funds*

Excess funds are:

- (1) unscheduled recoveries of principal on pooled mortgages received during the current month that are required to be passed through with the following month's payment; and
- (2) early receipts of scheduled payments.

For purposes of making payment in a particular month on internal reserve pool securities, scheduled payments on the mortgages are not excess funds if they are due on or before the first day of that month.

Excess funds attributable to one pool or loan package may be used to cover deficiencies caused by delinquent loans in another pool or loan package only if the pools and loan packages involved share the same P&I custodial account. Excess funds must be accounted for either pool-by-pool and loan package-by-loan package, or by custodial account.

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Section 15-5(A) (continued)

The issuer must maintain a ledger that details (i) the net unrecovered issuer advances to the P&I custodial account (Ginnie Mae I MBS Program) or to the central P&I custodial account (Ginnie Mae II MBS Program), (ii) the excess funds used in lieu of issuer advances, and (iii) the net amount of excess funds outstanding during each month, i.e., the amount that has not been recovered either through corporate funds or from payments on the mortgages.

Note: Funds in an escrow custodial account cannot constitute excess funds, because escrow funds collected in connection with a loan may be used only for the benefit of the mortgagor that made the payment. The issuer must advance its own funds to cover payments due on a mortgage with a deficit escrow balance.

CAUTION: The issuer must replace in the P&I custodial account excess funds used to make advances during a given month (a) in time to pay the security holders or deposit funds to the central P&I custodial account, as appropriate, and (b) before the issuer recovers advances made from its own funds or pursuant to a Pool Advance Agreement.

Example: Issuer receives on January 5th \$10,000 in FHA claims proceeds in connection with a mortgage in Ginnie Mae pool X. Because that \$10,000 is not required to be paid to security holders (claim proceeds are passed through in the month following the month of receipt (see Section 5-2(G)), it is considered “excess funds” in January with respect to other pools using the same P&I custodial account that pool X uses.

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Section 15-5(A) (continued)

Issuer may use the \$10,000 to cover shortfalls in collections on other mortgages due to be passed through to security holders (in the case of Ginnie Mae I pools) or deposited in the central P&I custodial account (in the case of Ginnie Mae II pools) in January. However, the issuer must replace the \$10,000 on or before February 15 (in the case of Ginnie Mae I pools) or February 19 (in the case of Ginnie Mae II pools), when the February payment to security holders or deposit to the central P&I custodial account must be made in connection with pool X. The issuer must also replace the \$10,000 before the issuer repays itself for any advances it has made.

The issuer is liable to Ginnie Mae at all times for the restitution of any excess funds withdrawn to cover advances. The issuer's obligation to reimburse Ginnie Mae will remain in effect even if Ginnie Mae declares the issuer in default under its Guaranty Agreement and terminates its issuer status.

Note: In order to use excess funds in lieu of advances in connection with Ginnie Mae I MBS pools issued prior to July 1, 1980, issuers must execute and submit to Ginnie Mae one copy of the Excess Funds Agreement (Appendix VI-8).

(B) Pool Advance Agreements

Under a Pool Advance Agreement (Appendix VI-1), the funds custodian must be irrevocably and unconditionally obligated to advance to the P&I custodial account or to the central P&I custodial account, as appropriate, any amount necessary to cover shortfalls as provided in the agreement. If the issuer uses a disbursement account separate from the pool P&I custodial account, the Pool Advance Agreement must cover that disbursement account. Ginnie Mae must have on record a Master Agreement for Servicer's Principal and Interest Custodial Account, form HUD 11709 (Appendix III-2) covering all of the pools affected by the Pool Advance Agreement.

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Section 15-5(B) (continued)

- (1) The issuer must use the Ginnie Mae form of Pool Advance Agreement (Appendix VI-1); copies of the agreement are available from Ginnie Mae's Office of Customer Service or Office of Multifamily Programs, as appropriate (see Addresses). No changes are permitted to be made to the form. The form of Pool Advance Agreement may not be retyped by the issuer.
- (2) The Ginnie Mae Pool Advance Agreement must be executed by both the issuer and the funds custodian.
- (3) The Ginnie Mae Pool Advance Agreement must be submitted in duplicate to Ginnie Mae's Office of Customer Service or Office of Multifamily Programs, as appropriate (see Addresses), for Ginnie Mae's written approval no later than the first day of the month prior to the month in which the agreement will become effective. Both copies must have original signatures.
- (4) A Pool Advance Agreement for an Ginnie Mae I MBS internal reserve pool may cover only a disbursement account that is separate from the related P&I custodial account. A Pool Advance Agreement may be utilized for a Ginnie Mae II MBS MH pool or loan package only if the issuer's central P&I custodial account is separate from the P&I custodial account for the pool or loan package.

The issuer must receive Ginnie Mae's written consent to the Ginnie Mae Pool Advance Agreement prior to implementing the terms of the agreement.

Use of a Ginnie Mae Pool Advance Agreement does not diminish the issuer's ultimate responsibility for all amounts due security holders, Ginnie Mae, or others as provided in this Guide, nor does it obligate Ginnie Mae in any way not otherwise specifically provided for in this Guide.

